



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,702	12/21/2000	Nabil Enrique Salman	8384P	9701

27752 7590 10/04/2002

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

TRUONG, THANH K

ART UNIT PAPER NUMBER

3721

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary

Application No.

09/745,702

Applicant(s)

SALMAN ET AL.

Examiner

Thanh K Truong

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-11, in Paper No. 5 is acknowledged. The traversal is on the ground(s) that "the Examiner's comments regarding the restriction are merely conclusory" and "there would be no significant burden placed on the Examiner" to search and examine the groups together. This is not found persuasive because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 12-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference number 70 (cutting means 70, page 6, line 1). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "three-dimensional

film having an outer surface that comprises a plurality of recessed pressure sensitive adhesive sites...surface of the film" in claim 6 (lines 2-5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "passageway is curved and is preferably an elbow" in claim 11 (lines 13-14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "can be" uses in claims through out the application is indefinite, because it fails to clearly define a positive limitation of the claimed invention. For example, the phrase "the tubular sheet can be dispensed through the dispensing

Art Unit: 3721

opening and into the inlet opening of the inner core" (claim 1, lines 9-11) implies that the tubular sheet may or may not be dispensed through the dispensing opening and into the inlet opening of the inner core. Therefore it does not clearly define the structure of the claimed invention.

Claim 4, the phrase "separating means comprises a separable region within the tubular sheet" (lines 1-2) is vague and indefinite, because is the tubular sheet part of the separating means? The applicant's disclosure (figures 1 & 3) did not support this structure as claimed.

Claim 11, the phrase "the passageway is curved and is preferably an elbow" (lines 13-14) is vague and indefinite, because it is unclear which is being claimed as the limitation of the invention? The "curved passageway" or the "elbow passageway"?

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-4, 8 and 11 rejected under 35 U.S.C. 102(e) as being anticipated by Lecomte (6,065,272).

Lecomte discloses (figure 1) a portable packaging device comprising:

a body "X" ("X", "Y", "A", "B", "C", "I", "O", "P" and "W" are marked by the examiner) formed by an inner core having an inlet opening "I" and an outlet "O" opening, and a passageway there between for passing there through an article to be packaged;

a casing "Y" comprising a surrounding casing wall, and a base wall "B" that joins an end of the surrounding casing wall to the body, the body and the casing defining a storage space "C" and a dispensing opening at the inlet end, wherein the device can retain a length 3 of the flexible tubular sheet within the storage space, wherein the tubular sheet are dispensed through the dispensing opening and into the inlet opening of the inner core, the article to be packaged are inserted through the inlet opening and inside the tubular sheet and the tubular sheet are gathered and closed at each end to form a closed packaged article "P", and

a means 5 for separating the closed packaged article from a trailing portion of the tubular sheet, to remove the closed individually packaged article through the outlet opening (column 5, lines 20-24).

Lecomte further discloses a cutting means 5 positioned adjacent the outlet opening "O" of the inner core (figure 1), a cap "A" covering at least a portion of the dispensing opening for retaining the length of non-resilient flexible tubular sheet, and

Art Unit: 3721

the passageway is curved (figure 1 shows a curve passageway "W" guiding the tubular sheet from storage space through the inlet opening to the outlet opening).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lecomte (6,065,272) in view of Daelmans et al. (5,935,686).

As discussed above in paragraph 9 of this office action, Lecomte discloses the claimed invention, except that the outer surface of the tubular sheet comprising an adhesive material, and the leading portion and trailing portion of the tubular sheet are closed with the adhesive material.

Daelmans et al. discloses a plastic film coating with adhesive material under moderate pressure will form a seal packaging (column 4, lines 45-49 and figures 1 & 4). Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to apply Daelmans et al. teaching of coating plastic film with adhesive material and modify Lecomte's tubular sheet so that the package article are formed when pressure are applied at the leading portion and trailing portion of the tubular sheet where there is an adhesive material coating providing a sealed and leak proof package (column 3, lines 16-20).

12. Claims 6 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lecomte (6,065,272) in view of Daelmans et al. (5,935,686).

As discussed in the paragraph 11 above, the modified Lecomte discloses the claimed invention, except that the tubular film comprises a three-dimensional film as recited in claim 6. However, as discloses in the applicant's specification on page 7, lines 18-30, the applicant admitted that the tubular film comprises a three-dimensional film having an adhesive applied on one surface is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Lecomte's device by using the three-dimensional film in the manner as discloses by the applicant providing a well sealed individually package article.

13. Claims 9 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lecomte (6,065,272).

As discussed above in the paragraph 9 of this office action, Lecomte discloses the claimed invention, except for the handle and the shape of the outlet opening and a portion of the passageway are oval.

It would have been an obvious matter of design choice to add a handle to the portable packaging device and to make the outlet opening and a portion of the passageway in an oval shape, since it appears that the invention would perform equally well with out the handle and the outlet opening is not an oval shape.


Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fuss et al. (5,782,067) and Shiotari (5,890,351) disclose cutting means for separating the plastic tubular sheet.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

tkf
September 25, 2002